**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928**

**WP(C).No. 9243 of 2007(A)**

**PETITIONER:**

**SMT.KHADEEJA, D/O.N.A.ABOOBACKER,**
**PROPRIETOR, WOOD CRAFT INDUSTRIES,**
**CHETTUMKUZHI, VIDYANAGAR, P.O. HIDAYATH NAGAR,**
**KASARAGOD DISTRICT.**

**BY ADV. DR.K.B.MUHAMED KUTTY (SR.)**
**SRI.K.M.FIROZ**

**RESPONDENTS:**

1. **THE INTELLIGENCE OFFICER (IB),**
   **DEPARTMENT OF COMMERCIAL TAXES, KASARAGOD.**

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   **COMMERCIAL TAXES, KOZHIKODE.**

**BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C) NO.9243/2007**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1:- COPY OF THE PENALTY ORDER DT.21.12.06.**

**EXT.P2:- COPY OF THE APPEAL PETITION DT.12.1.07.**

**EXT.P3:- COPY OF THE STAY PETITION DT.12.1.07.**

**EXT.P4:- COPY OF THE REPLY DT 27.11.06.**

**EXT.P5:- COPY OF THE STAY ORDER DT.27.2.2007.**

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**K.BALAKRISHNAN NAIR,J.**

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Judgment

The petitioner challenges Ext.P5 order passed by the 2nd respondent appellate authority on Ext.P3 stay application filed by her along with Ext.P2 appeal, challenging Ext.P1 order of penalty. The dealings of the petitioner with the SIDCO, which is a public sector undertaking, led to the imposition of penalty. The petitioner submits, the appellate authority should have granted absolute stay. Reliance is placed on the decision of the Division Bench of this Court in ***West Coast Industrial Gases v. Assistant Commissioner (Assessment)*** (1996 KLJ (Tax Cases) 152) in support of her contention.

2. I heard the learned Government Pleader also. Going by the facts of the case and also having regard to the fact that the dealings of the petitioner were with a public sector undertaking, I feel that a direction to the petitioner to furnish security for the entire amount, will meet the ends of justice. Accordingly, it is ordered that if the petitioner furnishes security for the amount of penalty within two weeks from today, further proceedings pursuant to Ext.P1 to recover the amount due thereunder, shall be kept in abeyance till the disposal of Ext.P2 appeal. The 2nd respondent shall endeavour to dispose of the appeal as early as possible. If the petitioner does not co-operate with the hearing of the appeal, by

seeking unnecessary adjournments, the appellate authority shall dispose of the appeal, rejecting such requests.

The Writ Petition is disposed of as above.

20.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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